

Subject: **MANDATORY REINSTATEMENT**

REFERENCES	SECTIONS
Law & Regulation http://www.dpa.ca.gov/statesys/dpa/laws.htm http://www.dpa.ca.gov/statesys/dpa/oalrules.htm http://www.spb.ca.gov/chief/code_regulations.htm http://www.spb.ca.gov/chief/government_code.htm	Govt. Codes: 18522, 18990, 19050.8, 19056, 19140-19144, 1925.5(h), 19776, 19780-19786, 19889.3-.4, 19991.1-.2, 21029 SPB Rules: 417.3, 425, 548.150-155 DPA Rules: 599.766, 599.775, 599.784
Memo of Understanding (MOU) http://www.dpa.ca.gov/collbarg/contract/bumenu.shtm	Consult appropriate MOU
Personnel Management Policy and Procedures Manual (PMPPM)	312, 313, 314, 320, 330, 331, 335, 340, 420
Responsible Control Agency and Program	State Personnel Board Department of Personnel Administration

Mandatory Reinstatement

Policy

It is the policy of DGS to comply with all legal requirements pertaining to mandatory reinstatement as explained in the above definition of mandatory reinstatement.

Definition/ Explanation

MANDATORY REINSTATEMENT: A mandatory reinstatement right entitles the employee to return to his/her former position with all of the status and rights that he/she had before vacating it. To have mandatory reinstatement rights, the employee must be in a circumstance covered by a reinstatement statute and meet all of the legal requirements specified for that particular type of reinstatement (e.g., prior status in general civil service).

The basic intent of the mandatory reinstatement provisions is to “make the employee whole” and to ensure that the employee does not lose previous civil service rights as a result of accepting another civil service appointment.

An employee’s mandatory rights must be honored by the appointing power upon the employee’s request within specified time limits. The right may be honored by offering any position that falls within the definition of “former” position that is applicable to the particular type of reinstatement in question. If there is no vacancy, the employee must still be reinstated to an appropriate position. Any resulting over staffing would be resolved through layoff or securing approval for a temporary misallocation.

Continued on next page

Mandatory Reinstatement, Continued

**Definition/
Explanation**
(continued)

FORMER POSITION: "Former position" means either of the following:

(a) A position in the classification to which an employee was last appointed as a probationer, permanent employee, or career executive, under the same appointing power where that position was held, and within a designated geographical, organizational, or functional subdivision of that state agency as determined appropriate by the board.

(b) With the concurrence of both the appointing power and the employee, a position in a different classification to which the same appointing power could have assigned such an employee in accordance with this part. However, the former position shall not include positions from which the employee has been separated through disciplinary action, rejected during a probationary period, terminated under Section 19889.3, or terminated, demoted, or transferred in accordance with Section 19253.5; or terminated on a nonpunitive basis under Section 19585.

- For reinstatement after disability retirement, Government Code section 21029 specifies that the employee has a right to reinstatement to a position in the former class (See PMPPM Section 420).
- For reinstatement after exempt appointments, former position is defined by Government Code section 19141 (See PMPPM Sections 313 and 314).
- For reinstatement after C.E.A. appointments, former position is defined by Rule 548.150 (See PMPPM Section 314).

The following reasons for temporary separation, allow employees mandatory reinstatement rights to their former positions:

- Employees returning from training and development assignments, temporary and limited-term appointments with prior permanent civil service status;
- Rejection on probation, with prior permanent civil service status;
- Military leave;
- Leaves of absence;
- Disability retirement;
- Non-industrial disability insurance (NDI);
- Industrial disability leave (IDL); and
- Exempt appointments.

Continued on next page 78.2

Mandatory Reinstatement, Continued

Responsibilities The following chart depicts the entity and its responsibilities regarding mandatory reinstatements.

Part	Function
Employee	It is the responsibility of the employee to inform the appointing power within the specified time limits of his/her intent to exercise mandatory reinstatement rights.
Department	<p>At the time an employee is notified of his/her termination or rejection during probation, they should also be informed of all reinstatement options they have, how to pursue each option, and the specific time limits for exercising the options.</p> <p>When an employee informs an appointing power of his/her intent to exercise mandatory reinstatement rights, the appointing power must determine the class of reinstatement and identify the actual position to which the employee will be reinstated.</p> <p>If an employee is being reinstated to a class other than that of the former position, the employee should be informed of the appointing power's intent as soon as possible. If there is a disagreement over the class of reinstatement, the appointing power should follow the involuntary transfer standards and seek the necessary approvals.</p>
SPB	<p>1) Rule 434 requires SPB approval of the classes involved in an involuntary transfer. The SPB Executive Officer must approve any reinstatement involving a change of classification to which the employee objects;</p> <p>2) The SPB analyst must assist departments in identifying former positions and/or the class of reinstatements as requested.</p>

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Mandatory Reinstatement, Continued

Responsibilities (continued)

Part	Function
DPA	DPA has the following involvements in the mandatory reinstatement process: <ol style="list-style-type: none">1. DPA's Records and Seniority Unit provides the employment history information that is necessary to determine an employee's reinstatement rights.2. All layoffs, including those caused by reinstatements, are administered by DPA, subject to SPB merit review and application of Government Code section 19798 (AB 3001).3. Mandatory transfers between locations, including those caused by reinstatement, fall under DPA jurisdictions.

Procedures The following steps shall be taken to process a mandatory reinstatement.

Step	Action
1	Employee notifies supervisor/manager of intent to exercise mandatory reinstatement rights.
2	Supervisor/manager notifies their Personnel Liaison (PL), and in return the PL contacts the Classification and Pay (C&P) Analyst to report the reinstatement request.
3	The PL may need to consult with the supervisor/manager and C&P Analyst to identify a position in which to place the returning employee.
4	Once a position has been identified, the PL will prepare an Request for Personnel Action (RPA) and submit it to the C&P Analyst.
5	The C&P Analyst will confirm that a mandatory reinstatement is appropriate. The C&P Analyst will also review and verify all supporting documentation. For example, an employee returning from medical leave of absence must provide a physician's statement that he/she is physically able to return to work.
6	The C&P Analyst will process the RPA and confirm the effective date of the reinstatement with the supervisor/manager.
7	The Personnel Specialist (PS) will complete the necessary transaction (A03) to reinstate the former employee based on the RPA submitted by the PL and approved by the C&P Analyst.